

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.

: 10/734,581

Filed

: December 15, 2003

Applicant

: HUNTER et al.

TC/A.U.

: 1651

Examiner

: Lilling, Herbert J.

Docket No.

: 2145-148

Customer No.

: 06449

Confirmation No.: 1947

Director of the United States Patent and Trademark Office P.O. Box 1450 Alexandria, Virginia 22313-1450

Dear Sir:

In response to the final Office Action dated August 4, 2006, Applicants submit the following. A declaration accompanies this response.

Amendment to the Specification begin on page 2. OK,

Amendment to the claims begin on page 3.

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Remarks begin on page 5.



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**DECLARATION** 

Director of the United States Patent and Trademark Office P.O. Box 1450 Alexandria, Virginia 22313-1450

Sir:

The undersigned, an officer of Bioheap Limited, 48 Lake Street, Northbridge, Western Australia 6003, AUSTRALIA declares:

- 1. That Bioheap Limited (formerly Pacific One Technology (Australia) Ltd.) is the assignee of the above-captioned application.
- 2. That a deposit of the bacterial cultures recited in the claims of the abovecaptioned application has been made under the terms of the Budapest Treaty at the Australian Government Analytical Laboratories (AGAL), the New South Wales Regional Laboratory, 1, Suakin St., Pymble, NSW 2073, AUSTRALIA (Deposit Accession No. NM99/07541). This depository affords permanence of the deposit and ready access thereto by the public.
- 3. That upon the granting of a patent in the above case, all restrictions, if any, upon the availability of the cultures to the public will be irrevocably removed.
  - 4. That the listed deposits shall be replaced should they ever become non-viable.

OK. to overcome rejection for Alburance

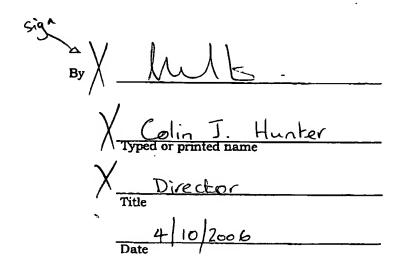
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5. The undersigned further declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

## 6. Statement under 37 CFR §3.73(b)

I am an authorized representative of Bioheap Limited the assignee of 100% interest in the patent application identified above by virtue of an assignment from the inventor(s) of the patent application. The assignment was recorded June 22, 2004 in the United States Patent and Trademark Office at Reel 014807, Frame 0787. A change of name for the assignee was recorded February 14, 2005 at the United States Patent and Trademark Office at Reel 015708, Frame 0918.

## Bioheap Limited





HUDACEST THEATT ON THE INTERNATION OF THE DECORATE OF MICHOOL LISING FOR THE PHINTOSES OF PATENT, PROCEDURE

75 OCT 1999

INTERNATIONAL FORM

RECRIPT IN THE CASE OF AN ORIGINAL DEPOSIT Issued pursuant to Rule 7.1 by the INTERNATIONAL DEPOSITARY AUTHORITY Identified at the bottom of this page

To Tamsin Williams
Recific Ore Technology PHILLI
1st Floor; 24 outrom st
West Roth
PO Box 1073; West Add.
HAME AND RODRESS.
OF DEPOSITOR

<u> Dunish Nilabilan, Artist alas esti euris artis utila utea patik trabast alta euris alla 180 alea il eras Re</u>
L. LURITTETCATION OF THE MICHOORGANISM
DEFOSITOR: Tefosence given by the Accession number given by the DEFOSITOR:
as above. NM99107541
11. SCIENTIFIC DESCRIPTION AND/ON PROPOSED, TAXONOMIC DESIGNATION
The microocganism identified under I above was accompanied by:
a scientific description
[X] 'n proposed taxonomic designation
(Mark with a cross where applicable)
ILL. RECEIPT AND ACCEPTANCE
This international Depository Authority accepts the microorganism identified under I above, which was received by it on $20/10/99$ . (date of the original deposit)
IV. RECEIPT OF REQUEST FOR CONVERSION
The microorganism identified under I above was received by this international Depositary Authority on (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion)
V. INTEGNATIONAL DEPOSITARY AUTHORITY
NUSTRALIAN GOVERNMENT  ANALYTICAL LABORATORIES to represent the international Depositary  PO Box 385 Pymble, 2073 Authority or of authorized official(s):  Address:  Date:
Facsimile (02) 449 1653

Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired:

Form RP/4 (sole page)